

AO 133

(Rev. 8/06) Bill of Costs

UNITED STATES DISTRICT COURT
District of MASSACHUSETTS

GENLYTE THOMAS GROUP LLC.

BILL OF COSTS

V.

ARCH LIGHTING GROUP

Case Number: 05-CV-10945 WGY

Judgment having been entered in the above entitled action on 2/5/2007 against Arch Lighting Group,
Date
the Clerk is requested to tax the following as costs:

Fees of the Clerk	\$ <u>250.00</u>
Fees for service of summons and subpoena	<u>75.00</u>
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case	<u>6,510.95</u>
Fees and disbursements for printing	<u>-0-</u>
Fees for witnesses (itemize on page two)	<u>1,694.80</u>
Fees for exemplification and copies of papers necessarily obtained for use in the case	<u>14,381.31</u>
Docket fees under 28 U.S.C. 1923	<u>-0-</u>
Costs as shown on Mandate of Court of Appeals	<u>-0-</u>
Compensation of court-appointed experts	<u>-0-</u>
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828	<u>-0-</u>
Other costs (please itemize)	<u>-0-</u>
TOTAL	\$ <u>22,912.06</u>

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

DECLARATION

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill has been served on all parties in the following manner:

☒ Electronic service by e-mail as set forth below and/or.

☒ Conventional service by first class mail, postage prepaid as set forth below.

s/ Attorney: 

Name of Attorney: Kevin Gannon

For: Genlyte Thomas Group LLC Date: 3/13/2007
Name of Claiming Party

Costs are taxed in the amount of _____ and included in the judgment.

Clerk of Court

By: _____
Deputy Clerk

Date

AO 133

(Rev. 8/06) Bill of Costs

UNITED STATES DISTRICT COURT

WITNESS FEES (computation, cf. 28 U.S.C. 1821 for statutory fees)

NAME , CITY AND STATE OF RESIDENCE	ATTENDANCE		SUBSISTENCE		MILEAGE		Total Cost Each Witness
	Days	Total Cost	Days	Total Cost	Miles	Total Cost	
1. Michael Tate Chicago, IL	2	80.00	2	476.00	air- fare	563.80	\$1,119.80
2. Thomas Lemons Salem, MA	3	120.00			96 (tolls- parking)	31.20 71.00	\$ 222.20
3. William Fabbri Wilmington, MA	6	240.00			192	62.40	\$ 302.40
4. Roy Crane Wilmington, MA	1	40.00			32	10.40	\$ 50.40
					TOTAL		\$1,694.80

NOTICE

Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:

“Sec. 1924. Verification of bill of costs.”

“Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed.”

See also Section 1920 of Title 28, which reads in part as follows:

“A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree.”

The Federal Rules of Civil Procedure contain the following provisions:

Rule 54 (d)

“Except when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs, but costs against the United States, its officers, and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day’s notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court.”

Rule 6(e)

“Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.”

Rule 58 (In Part)

“Entry of the judgment shall not be delayed for the taxing of costs.”

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GENLYTE THOMAS GROUP LLC,
a Delaware Limited Liability Company

Plaintiff,

v.

ARCHITECTURAL LIGHTING SYSTEMS, a
division of ARCH LIGHTING GROUP, a
Rhode Island Corporation

Defendant.

Civil Action No. 05-CV-10945 WGY

AFFIDAVIT OF ROBERT J. THEUERKAUF
IN SUPPORT OF BILL OF COSTS

I, Robert J. Theuerkauf, depose and say:

1. I am an attorney representing Genlyte Thomas Group LLC ("Genlyte") in the above-captioned litigation.
2. I have caused a review of the invoices and expense reports of Middleton Reutlinger charged to Genlyte in this case.
3. The expense reports show the following costs actually incurred by Genlyte in the course of this action according to the recognized categories of 28 U.S.C. § 1920:¹
 - a. Fees of the Clerk (§ 1920(1)): The cost to Genlyte for the filing fees paid to the Clerk of the United States District Court for the District of Massachusetts. The above taxable costs are set forth in Exhibit A attached hereto. The total cost is **\$250**.
 - b. Fees of the Marshal (§ 1920(1)): The cost to Genlyte for the fees paid to Corporate Investigations for process service. The above taxable costs are set forth in Exhibit A attached hereto. The total cost is **\$75**.

¹ An itemization of the taxable costs billed in this litigation is attached hereto as Exhibit A. Supporting documentation for this Bill and Exhibit A is held by Genlyte's counsel, and is available for inspection and copying.

- c. Fees of the Court Reporter for all or part of the stenographic transcript necessarily obtained for use in this case (§ 1920(2)): The cost to Genlyte for the deposition transcripts of those persons who appeared as witnesses at trial, the cost of the transcript of the trial for use at trial and for preparing post-trial pleadings, and the cost to Genlyte for the transcripts of various pre-trial proceedings including the Markman hearing transcript and the hearing on the Defendant's Summary Judgment motion. The above taxable costs are itemized in Exhibit A attached hereto. The total cost is **\$6,510.95**.
- d. Fees for witnesses (§ 1920(3)): The cost to Genlyte for Witnesses Thomas Lemons, Michael Tate, William Fabbri and Roy Crane. Pursuant to 28 U.S.C. § 1821, those witness cost include witness fees (at \$40 per day), mileage (at \$.3250) and/or travel by common carrier, tolls and parking and subsistence (at \$238 per day) for each day the witnesses were required to stay in Boston. The above taxable costs are itemized in Exhibit A attached hereto. The total cost is **\$1,694.80**.
- e. Fees for exemplification and copy of papers necessarily obtained for use in the case (§ 1920(4)): The cost to Genlyte for copies made in maintenance of the action and for discovery, photocopying and tabbing of Plaintiff's Trial Exhibits (copies to Judge, Jury Members, Witness and Counsel) and for the preparation of exhibits that were received into evidence and were of aid to the Court. Pursuant to 28 U.S.C. § 1924, I verify that the cost for such copies were no more than what is generally charged in the local area, and that no more copies than were actually necessary were reproduced. The above taxable costs are itemized in Exhibit A attached hereto. The total cost is **\$14,381.31**.

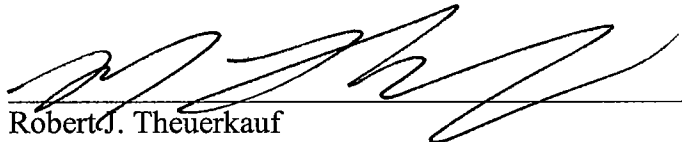
f. Docket Fees pursuant to 28 U.S.C. §1923 (§ 1920(5)): None.

g. Court-appointed experts, interpreters, etc. (§ 1920(6)): None.

The total of the foregoing is \$22,912.06.

4. Pursuant to 35 U.S.C. § 1924, I declare that (1) the costs enumerated above are correct;
(2) the costs enumerated above were necessarily incurred in the above-captioned matter; and
(3) the services enumerated above were actually and necessarily performed.

I declare the foregoing statements to be true under the penalties and pains of perjury this 13th
day of March 2007.



Robert J. Theuerkauf

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served first class mail on Brett N. Dorny, LAW OFFICE OF BRETT N. DORNY, 386 West Main Street, Suite 12A, Northborough, Massachusetts 01532, this 13th day of March 2007.



Counsel for Plaintiff, Genlyte Thomas Group LLC

EXHIBIT A

28 U.S.C. § 1920(1): Fees of the Clerk and Marshal

Nature of Charge	Date of Charge	Vendor	Amount
Filing Fee	5/6/05	Clerk for the United States District Court for the District of Massachusetts	\$250.00
Service of Summons	5/6/05	Corporate Investigations	\$75.00
TOTAL			\$325.00

28 U.S.C. §1920(2): Fees of the Court Reporter for all or any part of the stenographic transcript necessarily obtained for use in the case

Nature of Charge	Date of Charge	Vendor	Amount
Bill Fabbri depo. trans. taken on 5/11/06	5/25/06	Doris O. Wong Associates, Inc.	\$262.40
Transcript – Markman hearing 6/30/06	8/15/06	Donald E. Womack, Official Court Reporter	\$127.60
Scott Davis depo trans. taken on 9/6/06	9/18/06	Legalink, A Merril Company	\$1,010.40
Bill Fabbri depo trans. taken on 11/9/06	11/27/06	Doris O. Wong Associates, Inc.	\$139.80
Paul Northrup depo trans. taken on 12/20/06	12/28/07	Legalink, A Merril Company	\$481.60
Roy Crane depo trans. taken on 12/13/06	1/2/07	Doris O. Wong Associates, Inc.	\$223.55
Michael Tate depo trans. taken on 12/28/06	1/2/07	Sonntag Reporting Service Ltd.	\$219.80
Dr. Ian Lewin depo trans. taken on 12/27/06	1/24/07	Bowler Reporting Service	\$1,133.00
Trial transcripts – days 1– 7 (cost for non-expedited)	2/7/07	Donald E. Womack, Official Court Reporter	\$2,895.20
Transcript – Injunction hearing 2/5/07	2/7/07	Donald E. Womack, Official Court Reporter	\$17.60
TOTAL			\$6,510.95

28 U.S.C. §1920(3): Fees and Disbursements for Printing and Witnesses

Nature of Charge	Date of Charge	Vendor	Amount
Michael Tate – attendance at \$40 per day (2 days attendance)	n/a	n/a	\$80.00
Michael Tate – subsistence at \$238.00 per day (2 days attendance)	n/a	n/a	\$476.00
Michael Tate – travel charges (airfare Chicago/Boston)	n/a	n/a	\$563.80
Thomas Lemons – attendance at \$40 per day (3 days attendance)	n/a	n/a	\$120.00
Thomas Lemons – mileage at \$0.325 per mile (Salem, MA – Boston, MA: 16 miles x 6 = 96 miles)	n/a	n/a	\$31.20
Thomas Lemons – tolls and parking	n/a	n/a	\$71.00
William Fabbri – attendance at \$40 per day (6 days attendance)	n/a	n/a	\$240.00
William Fabbri – mileage at \$0.325 per mile (Wilmington, MA – Boston, MA: 16 miles x 12 = 192 miles)	n/a	n/a	\$62.40
Roy Crane – attendance at \$40 per day (1 day attendance)	n/a	n/a	\$40.00

Nature of Charge	Date of Charge	Vendor	Amount
Roy Crane – mileage at \$0.325 per mile (Wilmington, MA – Boston, MA: 16 miles x 2 = 32 miles)	n/a	n/a	\$10.40
TOTAL			\$1,694.80

28 U.S.C. §1920(4): Fees for exemplification and copies of papers necessarily obtained for use in the case

Nature of Charge	Date of Charge	Vendor	Amount
Copy Charges 15¢ per page	12/29/05	Middleton Reutlinger	\$ 24.75
Copy Charges 15¢ per page	12/29/05	Middleton Reutlinger	\$ 117.30
Copy Charges 15¢ per page	12/29/05	Middleton Reutlinger	\$ 1.20
Copy Charges 15¢ per page	12/29/05	Middleton Reutlinger	\$ 31.95
Copy Charges – Document production 17¢ plus tax	12/29/05	Ikon Office Solutions	\$ 301.65
Copy Charges 15¢ per page	4/28/06	Middleton Reutlinger	\$ 4.50
Copy Charges 15¢ per page	4/28/06	Middleton Reutlinger	\$ 6.75
Copy Charges 15¢ per page	5/3/06	Middleton Reutlinger	\$ 3.75
Copy Charges 15¢ per page	5/18/06	Middleton Reutlinger	\$ 66.60
Copy Charges 15¢ per page	5/18/06	Middleton Reutlinger	\$ 95.40
Copy Charges 15¢ per page	5/22/06	Middleton Reutlinger	\$ 48.90
Copy Charges 15¢ per page	5/30/06	Middleton Reutlinger	\$ 5.10
Copy Charges 15¢ per page	5/30/06	Middleton Reutlinger	\$ 31.80
Copy Charges 15¢ per page	5/30/06	Middleton Reutlinger	\$ 6.60
Copy Charges 15¢ per page	6/5/06	Middleton Reutlinger	\$ 117.45
Copy Charges 15¢ per page	6/7/06	Middleton Reutlinger	\$ 3.00
Copy Charges 15¢ per page	6/28/06	Middleton Reutlinger	\$ 7.80

Nature of Charge	Date of Charge	Vendor	Amount
Powerpoint Slides – Exhibits at Markman hearing and used at Trial and submitted into evidence (Trial Exhibit 48)	7/6/06	Animators at Law	\$1,031.62
Copy Charges 15¢ per page	10/25/06	Middleton Reutlinger	\$ 30.30
Copy Charges 15¢ per page	11/3/06	Middleton Reutlinger	\$ 36.75
Copy Charges 15¢ per page	11/3/06	Middleton Reutlinger	\$ 12.90
Copy Charges 15¢ per page	11/10/06	Middleton Reutlinger	\$ 4.65
Copy Charges 15¢ per page	11/13/06	Middleton Reutlinger	\$ 104.85
Copy Charges 15¢ per page	11/13/06	Middleton Reutlinger	\$ 25.20
Copy Charges 15¢ per page	11/13/06	Middleton Reutlinger	\$ 10.35
Copy Charges 15¢ per page	11/13/06	Middleton Reutlinger	\$ 7.65
Copy Charges 15¢ per page	11/17/06	Middleton Reutlinger	\$ 40.50
Copy Charges 15¢ per page	11/17/06	Middleton Reutlinger	\$ 8.55
Copy Charges 15¢ per page	11/17/06	Middleton Reutlinger	\$ 2.10
Copy Charges 15¢ per page	11/17/06	Middleton Reutlinger	\$ 13.20
Copy Charges 15¢ per page	11/17/06	Middleton Reutlinger	\$ 2.85
Copy Charges 15¢ per page	11/21/06	Middleton Reutlinger	\$ 13.20
Copy Charges 15¢ per page	11/21/06	Middleton Reutlinger	\$ 8.25
Copy Charges 15¢ per page	11/21/06	Middleton Reutlinger	\$ 16.20
Copy Charges 15¢ per page	11/27/06	Middleton Reutlinger	\$ 15.90
Copy Charges 15¢ per page	11/29/06	Middleton Reutlinger	\$ 17.25
Copy Charges 15¢ per page	11/29/06	Middleton Reutlinger	\$.75

Nature of Charge	Date of Charge	Vendor	Amount
Copy Charges 15¢ per page	11/30/06	Middleton Reutlinger	\$ 32.40
Copy Charges 15¢ per page	11/30/06	Middleton Reutlinger	\$ 217.35
Copy Charges 15¢ per page	12/5/06	Middleton Reutlinger	\$ 4.50
Copies of ALS' customer files taken in discovery 7,460 @ 21¢ (b&w) 41 @ \$1.50 (color)	12/6/06	Warroom Document Solutions, Inc.	\$1,628.10
Copy Charges 15¢ per page	12/11/06	Middleton Reutlinger	\$ 6.90
Copy Charges 15¢ per page	12/11/06	Middleton Reutlinger	\$ 24.60
Copy Charges 15¢ per page	12/11/06	Middleton Reutlinger	\$ 54.60
Copy Charges 15¢ per page	12/11/06	Middleton Reutlinger	\$ 47.70
Copy Charges 15¢ per page	12/15/06	Middleton Reutlinger	\$ 113.70
Copy Charges 15¢ per page	12/19/06	Middleton Reutlinger	\$ 3.00
Copy Charges 15¢ per page	12/22/06	Middleton Reutlinger	\$ 4.35
Copy Charges 15¢ per page	12/22/06	Middleton Reutlinger	\$ 41.85
Copy Charges 15¢ per page	12/22/06	Middleton Reutlinger	\$ 54.60
Copy Charges 15¢ per page	12/22/06	Middleton Reutlinger	\$ 42.00
Powerpoint Slides – Exhibits at Summary Judgment hearing and used at Trial and submitted into evidence (Trial Exhibit 49)	12/29/06	Animators at Law	\$1,048.75
Copy Charges 15¢ per page	1/3/07	Middleton Reutlinger	\$ 91.35
Copy Charges 15¢ per page	1/4/07	Middleton Reutlinger	\$ 18.60
Copy Charges 15¢ per page	1/9/07	Middleton Reutlinger	\$ 16.20

Nature of Charge	Date of Charge	Vendor	Amount
Copy Charges 15¢ per page	1/10/07	Middleton Reutlinger	\$ 52.20
Copy Charges 15¢ per page	1/11/07	Middleton Reutlinger	\$ 9.30
Copy Charges 15¢ per page	1/18/07	Middleton Reutlinger	\$ 50.85
Copy Charges 15¢ per page	1/18/07	Middleton Reutlinger	\$ 3.60
Copy Charges 15¢ per page	1/18/07	Middleton Reutlinger	\$ 4.50
Copy Charges 15¢ per page	1/18/07	Middleton Reutlinger	\$ 23.55
Copy Charges 15¢ per page	1/18/07	Middleton Reutlinger	\$ 3.15
Copy Charges 15¢ per page	1/18/07	Middleton Reutlinger	\$ 12.45
Copy Charges 15¢ per page	1/19/07	Middleton Reutlinger	\$ 16.95
Copy Charges 15¢ per page	1/19/07	Middleton Reutlinger	\$ 13.65
Copy Charges 15¢ per page	1/19/07	Middleton Reutlinger	\$ 12.60
Copy Charges 15¢ per page	1/19/07	Middleton Reutlinger	\$ 1.20
Copy Charges 15¢ per page	1/19/07	Middleton Reutlinger	\$ 76.05
Copy Charges 15¢ per page	1/19/07	Middleton Reutlinger	\$ 31.20
Copy Charges 15¢ per page	1/20/07	Middleton Reutlinger	\$ 18.75
Copy Charges 15¢ per page	1/22/07	Middleton Reutlinger	\$ 47.25
Copy Charges 15¢ per page	1/24/07	Middleton Reutlinger	\$ 9.75
Copy Charges 15¢ per page	1/29/07	Middleton Reutlinger	\$ 4.80
Copy Charges 15¢ per page	2/5/07	Middleton Reutlinger	\$ 18.00
Trial exhibit binders/copies (Jury, Court and counsel) 19,558 @ 21¢ (b&w) 928 @ .25¢ (tabs) 1,887 @ \$1.50 (color) 34 @ \$19.50 (binders)	2/20/07	Warroom Document Solutions, Inc.	\$7,832.68

Nature of Charge	Date of Charge	Vendor	Amount
Trial exhibit binders/copies (Jury, Court and counsel) 766 x .21¢ per page 137 x \$1.50 per page Binding \$3.00 x 2	2/20/07	Warroom Document Solutions, Inc.	\$ 372.36
Copy Charges 15¢ per page	2/21/07	Middleton Reutlinger	\$ 38.40
TOTAL			\$14,381.31